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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------|-------------|-------------------------|---------------------|------------------|
| 10/694,529 | 10/27/2003 | Sharif Alexander Hamdan | 10626 | 1898 |
| 7590 11/30/2005 | | | | |
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| | | | EXAMINER | |
| | | | MAI, TRI M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3727 | |

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|------------------------|--|--------------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/694,529 | | HAMDAN, SHARIF ALEXANDER | |
| | Examiner | | Art Unit | |
| | Tri M. Mai | | 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-9,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,6-9,13 and 14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The election is withdrawn in view that applicant asserts that the difference between groups 1 and 2 is not patentably distinct.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second affixing means being tie string in claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 3727

3. Claims 1, 7, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation “any shape and many sizes” renders the claims indefinite.

4. Claims 1, 2, 7, 8, 9, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerofalo (6508282). Gerofalo teaches a tube having a first end and a second end designed to fit over and a receptacle as claimed, a first affixing loop 11 disposed at the first end and. It is noted that the cover in Gerofalo is the tube as claimed, i.e., when the hook and loop strips 19 and 21 are mated, the cover would be a tube as claimed. Note the cover is made from polymeric material, i.e., plastic (col 2, ln. 61).

Regarding claim 7, the affixing loop in Gerofalo would create an annular edge as claimed.

Regarding claims 8, 9, 13, and 14, as set forth in applicant’s response that the difference between elastic loop and drawstrings are not patentably distinct, it would have been obvious to one of ordinary skill in the art to substitute drawstring for plastic loop to provide alternative attaching means.

5. Claims 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerofato in view of Sessler (3913648). It would have been obvious to one of ordinary skill in the art to provide the decoration with advertising as taught by Sessler to advertise the product.

6. Claims 1, 2, 7, 9, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Whitlow (4200133). Whitlow teaches a tube that is made from plastic (abstract) having two ends

Art Unit: 3727

with affixing loop of elastic loops. It is an intended use to use the cover with a receptacle covering

Regarding claim 14, to the degree that only a receptacle being claimed, the cover in Whitlow is capable of the intended function of have a ledge as claimed.

7. Claims 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitlow (4200133) in view of Sessler (3913648). Whitlow meets all claimed limitations except for the advertising. It would have been obvious to one of ordinary skill in the art to provide the advertising as taught by Sessler, fig. 8, to promote the product and/or company.

8. Claims 1, 2, 6, 7, 9, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinchliff (2035384) in view of Szuszkiewicz (2003/0010415). Hinchliff teaches a cover with decoration (pg. 2, col. 1, ln. 65-67) having two end with elastomeric loops at two ends (pg. 2, col. 2, ln. 33, 43, 50-55; Figs. 18, 12, 13, 14). Hinchliff meets all claimed limitations except for the material being plastic. It would have been obvious to one of ordinary skill in the art to use plastic as taught Szuszkiewicz to provide the desired material for the cover.

It is noted that it is an intended use to using the cover with a trash receptacle. Furthermore, it is noted that the Hinchliff disclose several receptacles (pg. 1, col. 1, ln. 9-11) that are considered as trash receptacle as claimed, i.e., they can contain trashes.

With respect to the ledge in claim 14, the cover in Hinchliff is capable of forming a ledge due to its flexibility as claimed.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hinchliff rejection, as set forth above, and further in view of Sawyer (4739880), or Gerofalo, or the admission as set

Art Unit: 3727

forth in applicant's response. It would have been obvious to one of ordinary skill in the art to provide the tie string to provide alternative retaining means.

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hinchliff rejection, as set forth above, and further in view of Richardson et al. (5305907) or Warnberg (D214288). To the degree it is argued that Hinchliff does not teach the ledge, either Richardson or Warberg shows that the flexible material can create a ledge at the opening. It would have been obvious to one of ordinary skill in the art to provide the ledge at the opening as taught by either Warnber of Richardson to provide added security.

11. Applicant's arguments filed have been fully considered but they are not persuasive.

In Hinchliff, as set forth above, the claim is directed to a cover, the recitation over the trash and/or recycle receptacle is an intended use. It is noted that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Furthermore, the cover as claimed does not impart any structure over the cover of Hinchliff.

With respect to the Szuszkiewicz, it is noted that Szuszkiewicz teaches the cover can be made from plastic, i.e., "the fabrics or materials used to make the cover--or a lining for the cover--could be odor proof, or scented, or deodorizing, or **plastic**" pg. 4, paragraph 95. Clearly, Szuszkiewicz teaches the cover can be made from plastic.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

